

# Exhibit 1

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
**NINO MARTINENKO, on behalf of herself and others**  
**similarly situated,**

**Civil Action No.: 22 CV 518**

**Plaintiff,**

**-against-**

**212 STEAKHOUSE, INC., and NIKOLAY VOLPER**

**Defendants.**  
-----X

**IF YOU ARE OR WERE EMPLOYED AS A SERVER, RUNNER, BUSSER, OR  
BARTENDER AT 212 STEAKHOUSE AT ANY TIME ON OR AFTER JANUARY 20,  
2016, PLEASE READ THIS NOTICE.**

- Plaintiff Nino Martinenko has brought a lawsuit against 212 Steakhouse, Inc. and Nikolay Volper (collectively, “Defendants”). The lawsuit alleges, among other things, that 212 Steakhouse restaurant (“212 Steakhouse”) illegally paid service employees pursuant to a tip credit, failed to pay service employees required overtime and spread of hours compensation, and failed to provide service employees with certain wage notices and wage statements required under New York law.
- Defendants deny that Plaintiff’s claims have merit and have asserted various defenses against those claims.
- The Court has allowed the lawsuit to proceed as a class action under the New York Labor Law. The class consists of servers, runners, bussers, and bartenders who were employed at 212 Steakhouse any time since January 20, 2016. In a class action lawsuit, one or more people called the “Class Representative” sue on behalf of other people who have similar claims, called the “Class.” In this case, the Class Representatives are Named Plaintiff Nino Martinenko and Dagmara Huk, who joined the lawsuit after it was filed. Class members are automatically included in the case unless they choose to exclude themselves, in writing, from the Class.
- The Honorable Jennifer L. Rochon, United States District Court Judge for the Southern District of New York, is overseeing this lawsuit. This class action lawsuit is known as *Martinenko v. 212 Steakhouse, Inc.*, Case No. 22 CV 518.
- This Notice is not an expression by the Court of any opinion as to the merits of any claims or defenses by either party to this lawsuit.

## **YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT**

Make sure to read this section carefully to understand your options.

### **1. REMAIN IN THE LAWSUIT**

If you do nothing in response to this Notice, you will remain a member of the Class. This may allow you to receive money or other benefits that may come from a trial or settlement of this class action lawsuit.

By remaining a member of the Class, you give up the right to separately bring a lawsuit against 212 Steakhouse for unpaid wages under the New York Labor Law. You will be legally bound by the orders and judgments that the Court enters regarding the Class claims.

If you remain in this lawsuit and the Class Representatives succeed in proving the claims against 212 Steakhouse, you will be notified about how to receive your share of the money.

### **2. ASK TO BE EXCLUDED FROM THE LAWSUIT**

If you ask to be excluded from this class action lawsuit, you will retain the right to sue 212 Steakhouse separately.

If you are excluded, you will not be entitled to a share in any money that the Class may obtain from 212 Steakhouse from either a trial or a settlement in this lawsuit.

If you wish to request exclusion from the Class, you must write to class counsel on or before **[45 days from date of mailing]** and request to be excluded:

Denise A. Schulman, Esq.  
Joseph & Kirschenbaum LLP  
32 Broadway, Suite 601  
New York, NY 10004

The exclusion request must be postmarked by **[45 days from date of mailing]**.

### **3. THE LAWYERS REPRESENTING THE CLASS**

The law firm Joseph & Kirschenbaum LLP is representing you and all Class Members and has been designated “Class Counsel” in this lawsuit. Accordingly, if you choose to remain in the Class, you do not need to hire your own attorney because Class Counsel will represent you and all other Class Members. Nevertheless, you are permitted to hire a separate attorney if you so choose.

As Class Counsel, Joseph & Kirschenbaum LLP is handling this matter on a contingency basis. In other words, Class Counsel will be paid out of any recovery and will not be paid

at all if there is no recovery. If the Class Members prevail on their claims against 212 Steakhouse, Class Counsel will make an application to the Court for the recovery of fees and legal costs and expenses. Class Counsel may seek attorneys' fees totaling one-third of any settlement fund or judgment recovered on behalf of the Class as well as reimbursement of their expenses.

**TO GET MORE INFORMATION**

You can obtain more information about this lawsuit by contacting Class Counsel:

Denise A. Schulman, Esq.  
Michael DiGiulio, Esq.  
Joseph & Kirschenbaum LLP  
32 Broadway, Suite 601  
New York, NY 10004  
212-688-5640  
[mike@jk-llp.com](mailto:mike@jk-llp.com)